

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)
)
Plaintiff,)
) CRIMINAL NO. 19-01715 RB
vs.)
)
JAMES CHRISTOPHER BENVIE,)
)
Defendant.)

UNITED STATES' MOTION IN LIMINE TO EXCLUDE TESTIMONY OF
CERTAIN WITNESSES

The United States hereby moves files this Motion *in Limine* to preclude the defendant, James Benvie, from presenting testimony of six of the witnesses listed on his witness list.

The defendant is charged with false personation of a United States Border Patrol Agent, in violation of 18 U.S.C. § 912, on April 15, 2019, and April 17, 2019. On each of these two dates, the defendant video-taped himself stating “United States Border Patrol” to groups of aliens illegally present in the United States. Following his statements of “United States Border Patrol,” the defendant gave the aliens commands about what they should do and asked them questions regarding their nationality.

On multiple social media posts, the defendant has posted videos of himself discussing the charges against him and the fact that he believes the government’s prosecution of him is politically based and somehow has been orchestrated by various politicians. He refers to those politicians as the “Open Border Mafia” and has indicated that he intends to call the politicians as witnesses at his trial in order to attempt to prove that the prosecution of him is politically motivated. On February 24, 2020, the defendant filed his witness list in this case. On his witness list, the defendant indicated that he was including all witnesses listed on the

government's witness list and any witness needed for rebuttal. He also included the following witnesses by name: (1) New Mexico Governor Michelle Lujan Grisham; (2) Congresswoman Veronica Escobar; (3) New Mexico Attorney General Hector Balderas; (4) Congresswoman Debra Anne Halland; (5) Congressman Ben Ray Lujan; and (6) New Mexico ACLU Director Peter Simonson. The following day, on February 25, 2020, the defendant posted a copy of his witness list on his Facebook page.

Relevant evidence is evidence that "has any tendency to make a fact more or less probable than it would be without the evidence; and the fact is of consequence in determining the action." Fed. R. Evid. 401. If evidence is not relevant, it is not admissible at trial. Fed. R. Evid. 402. None of the six witnesses listed by name on the defendant's exhibit list have any personal knowledge of the facts of the defendant's case. None of the witnesses were present when the actions with which the defendant is charged transpired on April 15, 2019, and April 17, 2019. None of the witnesses have been a part of the investigation or prosecution of the criminal case against the defendant. None of the witnesses were consulted by the prosecution team in this case, nor did they make any decisions regarding the criminal charges brought against the defendant. The naming of these witnesses by the defendant appears to be a mere ploy by the defendant to garner attention and to attempt to make his unsupported, and irrelevant, argument that the government's decision to prosecute him in this case was politically motivated.

The testimony of the six listed witnesses does not make any fact at issue in the trial more or less probable. *See* Fed. R. Crim. P. 401. Thus, any testimony from these witnesses should be excluded from trial as irrelevant under Fed. R. Crim. P. 402.

Counsel for Defendant, Orlando Mondragon, opposes this motion.

For the above reasons, the United States respectfully requests that the Court enter an Order excluding, as irrelevant to the criminal charges against the defendant, the testimony of: (1) New

Mexico Governor Michelle Lujan Grisham; (2) Congresswoman Veronica Escobar; (3) New Mexico Attorney General Hector Balderas; (4) Congresswoman Debra Anne Halland; (5) Congressman Ben Ray Lujan; and (6) New Mexico ACLU Director Peter Simonson.

Respectfully submitted,

JOHN C. ANDERSON
United States Attorney

Electronically filed on 2/26/2020

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I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send electronic notification to defense counsel of record.

/s/ _____
RENEE L. CAMACHO
Assistant United States Attorney